

New Pennsylvania Child Protective Services Law Amendments Update

Effective December 31, 2014, Pennsylvania made amendments to the state's Child Protective Service Law ("CPSL"), 23 Pa. C.S. §§6301. The amendments included definitions of new terms, imposed new training and certification requirements, defining mandated reporters and reporting procedures. A child is defined as any individual under 18 years of age. The CPSL requires organizations, municipalities, etc. to obtain child abuse clearances and criminal record checks for employees and volunteers who are in a position of regular contact with children in the form of care, supervision and training.

Under the CPSL the term "Child Abuse" is defined in 23 Pa. C.S. §6303(b.1) means intentionally, knowingly or recklessly doing any of the following:

- Causing bodily harm to child through any recent act or failure to act
- Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful evaluation or treatment to the child through any recent act
- Causing substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act,
- Causing sexual abuse or exploitation of a child through any act or failure to act
- Creating reasonable likelihood of bodily injury to a child through any recent act or failure to act
- Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act
- Causing serious physical neglect of a child and
- Causing death of the child through any act or failure to act

As mentioned the CPSL has defined individuals who are mandated reporters and are required to report suspected child abuse if they have reasonable cause. These individuals from the municipal side may be a paid employee or a volunteer and can include the following:

- Paid employees or volunteers whose individual role is an integral part of a regularly schedule program, activity or service and accepts responsibility of the child
- An employee of a "child care service" who has direct contact with children in their course of employment and includes a municipal day-acre service
- A peace officer or law enforcement official
- An emergency medical Services provided certified by the department of health
- An employee of a public library with direct contact with children during course of employment
- An individual supervised or managed by any person listed above who has direct contact with children
- An independent contractor who has direct contact with children

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As a result of these amendments police officers, library employees, municipal park and recreation program employees, emergency medical service providers and volunteers are now considered a mandated reporter. Although municipal employees and volunteers may not be required or mandated to complete training, it is recommended that those defined as a mandated reporter complete an initial training in child abuse recognition and reporting.

A mandated reporter must report immediately and make an oral report of suspected child abuse to the Department of Human Services by contacting a statewide toll free number at 800-932-0313 or online at www.compass.state.pa.us/cwis. If an oral report is made the written report must be made and filed within 48 hours. Additional information, forms and reporting requirements can be found at the website www.KeepKidsSafe.pa.gov which serves as an informational portal.

There are several clearances that a municipality or organization associated in the care and supervision of children should obtain for all employees (Full-Time and Part-Time) 14 years of age and older or volunteers that fall under these requirements. The clearances include:

- The Pennsylvania State Police Criminal History Check (\$10.00)
- The Pennsylvania Child Abuse History Clearance (\$10.00)
- The FBI Criminal History Check through the Department of Human Service (\$27.50)

The clearances must be produced prior to a new employee begins, except during the provisional hiring period generally 90 days for employees and every 36 months thereafter. For existing employees, who were employed prior to December 31, 2014, they are required to obtain updated clearances within 36 months of their most recent clearance and no later than December 31, 2015 if their clearance is older than 36 months.

For municipalities and organization with adult volunteers (18 years or older) in a position of caring for and supervising children must have obtain clearances by July 1, 2015. Volunteer who have a current child abuse clearance and criminal background check issued before July 1, 2015 shall obtain updates within 36 months of the most recent clearance on file. If the clearance is older than 36 months, then the volunteer must obtain a criminal history and child abuse clearance by July 1, 2016

The new changes not only affect the local municipality, but the volunteer emergency service organizations as well. The Volunteer Fire or EMS Organization with a Junior Firefighter Program for members under 18 years of age, holding day camps, holding fire prevention and safety events while serving in capacity of supervision, guidance or control of children should be obtaining these clearances to comply with the CPSL. A written policy should be established within the organization requiring that the member obtains the appropriate clearances.

Additional questions or concerns regarding compliance issues and reporting should be discussed with your legal counsel.